

## Message Text

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41

ACTION EUR-25

INFO OCT-01 ISO-00 AID-20 CEA-02 CIAE-00 COME-00 EB-11

EA-11 FRB-02 INR-10 IO-14 NEA-10 NSAE-00 RSC-01

OPIC-12 SPC-03 TRSE-00 CIEP-02 LAB-06 SIL-01 OMB-01

SS-20 NSC-10 L-03 STR-08 AGR-20 TAR-02 DRC-01 /196 W

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R 311903Z OCT 73

FM USMISSION OECD PARIS

TO SECSTATE WASHDC 973

UNCLAS SECTION 1 OF 2 OECD PARIS 28242

EO 11652 N/A

TAGS ETRD OECD

SUBJECT OECD EXECUTIVE COMMITTEE IN SPECIAL SESSION (XCSS)

NOVEMBER 8-9; TEXT OF SECGEN'S NOTE ON SAFEGUARD CLAUSE

FOR SECTORAL DIFFICULTIES

AS REQUESTED, MISSION TRANSMITS BELOW TEXT OF SECGEN'S  
NOTE CE(73)13, DISCUSSION BY TRADE COMMITTEE ON THE  
SAFEGUARD CLAUSE FOR SECTORAL DIFFICULTIES

BEGIN TEXT

1) THE NOTE BY THE SECRETARY-GENERAL CE(73)12 WAS  
GENERALLY CONSIDERED AS BEING A GOOD SUMMARY OF THE  
PRESENT STATUS OF DISCUSSIONS ON THE SAFEGUARD CLAUSE FOR  
SECTORAL DIFFICULTIES.

2) THE DISCUSSION IN THE TRADE COMMITTEE PROVIDED  
THE VARIOUS DELEGATIONS WITH AN OPPORTUNITY TO EXPLAIN  
THEIR POINTS OF VIEW OR SAY WHAT THEY THOUGHT OF CERTAIN  
OPINIONS REFLECTED IN THE DOCUMENT. THUS, FOR EXAMPLE,  
WITH REFERENCE TO PARAGRAPH 23 OF THE NOTE, IT WAS  
POINTED OUT THAT THE NEED FOR A SPECIAL BODY FOR  
SURVEILLANCE COULD NOT BE CONSIDERED AS GENERALLY  
RECOGNIZED. SIMILARLY IT WAS NOTED THAT THE IDEA PUT  
FORWARD IN PARAGRAPH 39 OF INCLUDING IN THE SAFEGUARD  
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SYSTEM ALL SAFEGUARD MEASURES, INCLUDING THOSE TAKEN

IN THE FRAMEWORK OF "ORDERLY MARKETING" ARRANGEMENTS  
(IN PARTICULAR VOLUNTARY RESTRICTIONS ON EXPORTS) HAS  
NOT REALLY BEEN DISCUSSED YET.

3) IN THE MAIN, THE DISCUSSION CONCERNED THE  
SYSTEM AS A WHOLE, AND IN PARTICULAR THE SUGGESTION OF  
INSTITUTING, ALONGSIDE ARTICLE XIX OF THE GATT, ANOTHER  
TRACK FOR RECOURSE TO SAFEGUARD MEASURES WHICH COULD BE  
USED BETWEEN COUNTRIES WHICH CHOSE TO SUBSCRIBE TO THE  
DISCIPLINE INVOLVED.

4) IT IS RECALLED THAT THIS SECOND TRACK WAS  
SUGGESTED WITH THE OBJECT OF SEEKING AGREEMENT AT  
INTERNATIONAL LEVEL ON SAFEGUARD MEASURES. PRIOR  
NOTIFICATION AND CONSULTATION WOULD BE COMPULSORY,  
EXCEPT IN CASES OF EXCEPTIONAL URGENCY (ACCORDING TO  
ONE OPINION EXPRESSED, THESE EXCEPTIONAL MEASURES  
SHOULD ACCORDINGLY BE LESS RESTRICTIVE THAN MEASURES  
TAKEN AFTER CONSULTATIONS). INVOCATION OF THE CLAUSE  
WOULD CONTINUE TO BE BASED ON THE CRITERIA OF ARTICLE  
XIX, AND IN PARTICULAR ON THE EXISTENCE OR THREAT OF  
SERIOUS INJURY, BUT THE MEASURES WOULD HAVE TO SATISFY  
THE FOLLOWING CONDITIONS:

(I) THEY MUST BE TEMPORARY AND LIMITED TO A DEFINITE PERIOD;  
(II) THEY MUST BE NON-DISCRIMINATORY (WITH THE POSSIBILITY,  
HOWEVER, OF SELECTIVE APPLICATION IN CERTAIN CASES);  
(III) THEY MUST BE DEGRESSIVE (POSSIBLY AFTER A "GRADE PERIOD");

AND

(IV) THEY MUST BE ACCOMPANIED BY AN ADJUSTMENT PROGRAM (ALTHOUGH  
THE GOVERNMENT NEED NOT NECESSARILY BE INVOLVED IN FINANCING IT).

IF INTERNATIONAL AGREEMENT IS REACHED AS TO THE SAFE-  
GUARD ACTION, THERE WOULD BE NEITHER OBLIGATION NOR  
RIGHT TO COMPENSATION OR RETALIATION (OR, MORE GENERALLY,  
SACTIONS); IN THE CASE OF FAILURE TO REACH AGREEMENT,  
ALL THE PROVISIONS OF ARTICLE XIX WOULD APPLY.

5) THE DISCUSSION SHOWED THAT A SECOND TRACK OF THIS  
KIND MIGHT IN SOME RESPECTS BE USEFUL. IT WAS SUGGESTED  
THAT, SUBJECT TO CLARIFICATION AND FURTHER  
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DETAIL, THE SECOND TRACK MIGHT BE INTRODUCED ON A  
VOLUNTARY AND EXPERIMENTAL BASIS IN ORDER TO SEE WHETHER  
THERE WAS SUFFICIENT WILLINGNESS TO INSTITUTE STRICTER  
DISCIPLINE.

6) HOWEVER, SOME PROBLEMS ARISING IN CONNECTION WITH  
THIS APPROACH WERE MENTIONED: FOR EXAMPLE, THE TREAT-  
MENT OF COUNTRIES WHICH HAD NOT SUBSCRIBED TO THE

SECOND TRACK SYSTEM WHEN IT WAS IN FACT APPLIED IN A  
SPECIFIC CASE.

7) IT WAS ALSO OBSERVED THAT ARTICLE XIX ALREADY  
PROVIDES TO SOME EXTENT FOR A SECOND TRACK BY INDICATING,  
WITHOUT PRECISELY DEFINING THEM, DIFFERENT PROCEDURES TO  
BE FOLLOWED DEPENDING ON WHETHER OR NOT THERE IS AGREEMENT  
BETWEEN THE PARTIES CONCERNED ON THE MEASURES TO BE TAKEN  
IN PARTICULAR CASES.

8) FURTHERMORE, A SECOND TRACK WOULD NOT RESOLVE CERTAIN  
PROBLEMS WHICH IN ANY CASE ARISE FROM ARTICLE XIX.  
CIRCUMSTANCES HAVE CHANGED CONSIDERABLY SINCE THE TIME WHEN  
THE ARTICLE WAS DRAFTED. THIS IS TRUE, ACCORDING TO SOME  
OF THE VIEWS EXPRESSED, FOR THE CRITERIA USED TO JUSTIFY  
RECOURSE TO SAFEGUARD MEASURES. A CASE IN POINT, FOR  
EXAMPLE, IS THE CASUAL LINK BETWEEN DIFFICULTIES CREATED  
BY AN INCREASE IN IMPORTS AND THE COMMITMENTS (SUCH AS  
TARIFF CONCESSIONS) ENTERED INTO UNDER THE GENERAL AGREEMENT.  
DID NOT THIS LINK MAKE BETTER SENSE AT A TIME WHEN TARIFF  
.....BROWN

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R 311903Z OCT 73  
FM USMISSION OECD PARIS  
TO SECSTATE WASHDC 0974

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NEGOTIATIONS WERE BEING CONDUCTED MAINLY ON A PRODUCT-  
Y-PRODUCT BASIS? SITUATIONS WHICH MIGHT JUSTIFY SAFEGUARD  
ACTION ARE NOW MORE COMPLEX, AND THERE MAY BE URGENT

OVER-RIDING REASONS, OF A SOCIAL NATURE FOR EXAMPLE, FOR TAKING ACTION. THE LACK OF PRECISION OF THE CRITERIA CONTAINED IN ARTICLE XIX (FOR EXAMPLE, UNEXPECTED CHANGES IN CIRCUMSTANCES) WAS UNDERLINED. THE SAME IS TRUE AS REGARDS THE QUESTION OF KNOWING WHAT THE BASIS FOR THE AGREEMENT OR DISAGREEMENT REFERRED TO IN PARAGRAPH 3 OF ARTICLE XIX IS. THERE IS ALSO A LACK OF PRECISION IN THE ARTICLE AS REGARDS THE MEASURES WHICH CAN BE USED.

9.) ON THE OTHER HAND, HOWEVER, IT WAS ALSO OBSERVED THAT NOTSET OF CRITERIA COULD BE REALLY SATISFACTORY, AND THAT SUCH PROBLEMS OF INTERPRETATION WERE PROBABLY UNAVOIDABLE. FURTHERMORE, IT MUST ALSO BE BORNE IN MIND THAT ARTICLE XIX IN ITS PRESENT FORM IS ONE ELEMENT IN THE OVERALL BALANCE OF THE GENERAL AGREEMENT.

10.) IT WAS CONFIRMED THAT CERTAIN IMPORTANT ASPECTS OF THE SAFEGUARD SYSTEM WOULD HAVE TO BE FURTHER CLARIFIED; THIS WOULD ALSO BE HELPFUL IN REACHING AN OPINION ON THE SUGGESTION OF A TWO-TRACK SYSTEM. THESE ASPECTS INCLUDE:

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(I) THE QUESTION OF COMPENSATION AND SANCTIONS.  
IN SPITE OF THEIR IMPERFECTIONS, COMPENSATION AND RETALIATION CAN CONSTITUTE CURBS ON ACTION BY GOVERNMENTS AND PROVIDE THEM WITH ARGUMENTS FOR RESISTING INTERNAL PRESSURES;

(II) PROBLEMS CONCERNING NON-DISCRIMINATION OR  
SELECTIVITY;

(III) THE QUESTION OF THE LINK BETWEEN SAFEGUARD MEASURES  
AND STRUCTURAL ADJUSTMENT, AND THE CONCEPT OF STRUCTURAL  
ADJUSTMENT ITSELF;

(IV) THE MACHINERY FOR SETTLING DISPUTES;

(V) THE TYPES OF MEASURES, AND MORE PARTICULARLY THOSE TAKEN  
IN THE FRAMEWORK OF ORDERLY MARKETING ARRANGEMENTS  
LIKE VOLUNTARY RESTRICTIONS ON EXPORTS.

11.) WITH REGARD TO THE CONTINUATION OF DISCUSSIONS ON THE  
SAFEGUARD CLAUSE PROBLEM, AND IN VIEW OF THE FACT THAT THIS  
ISSUE FALLS UNDER THE NEGOTIATIONS TAKING PLACE IN THE  
FRAMEWORK OF THE GATT, DOUBTS WERE EXPRESSED AS TO THE  
POSSIBILITY OF MAKING MUCH MORE PROGRESS WITHIN THE O.E.C.D.  
THE PREVAILING VIEW WAS HOWEVER THAT IT IS STILL POSSIBLE AND  
USEFUL TO DEFINE AND SYSTEMATIZE THE VARIOUS OPTIONS AND  
THAT, AT AN APPROPRIATE TIME, CERTAIN ASPECTS OF THE SAFEGUARD  
SYSTEM COULD BE THE SUBJECT OF FURTHER DISCUSSIONS.

12.) FOLLOWING THIS EXCHANGE OF VIEWS, AND ON THE BASIS OF  
THE ABOVE CONSIDERATIONS, THE TRADE COMMITTEE ADOPTED THE  
FOLLOWING CONCLUSIONS:  
THE COMMITTEE:

(A) INSTRUCTED THE SECRETARIAT TO PREPARE A NOTE ON THE  
DISCUSSION, AND TO BRING IT TO THE NOTICE OF THE  
EXECUTIVE COMMITTEE IN SPECIAL SESSION;

(B) NOTED THAT, WHILE THE ISSUE OF A SAFEGUARD CLAUSE

FALLS UNDER THE MULTILATERAL TRADE NEGOTIATIONS  
WHICH ARE GOING ON IN THE GATT, IT COULD STILL  
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AT THIS STAGE BE USEFUL TO SET OUT THE DIFFERENT  
OPTIONS AMONG WHICH A CHOICE CAN BE MADE;

(C) CONSIDERED THAT, FOR THIS PURPOSE, THE VIEWS  
EXPRESSED SHOULD BE INCORPORATED INTO A  
SYSTEMATIC DESCRIPTION OF THE OPTIONS AND  
INSTRUCTED THE SECRETARIAT TO PREPARE SUCH A  
DESCRIPTION WHICH COULD SUBSEQUENTLY BE SENT  
TO THE EXECUTIVE COMMITTEE IN SPECIAL SESSION;

(D) RESERVED FOR ITSELF THE POSSIBILITY, AT AN  
APPROPRIATE TIME, OF RESUMING ITS DISCUSSION OF  
SOME ASPECTS OF THE SAFEGUARD CLAUSE SYSTEM.  
END TEXT.BROWN

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